

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of this decision (1) was not written for publication and (2) is not binding precedent of the Board.

Paper 35

Filed by: Interference Trial Section Merits Panel
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

ALEX ZHU and JACK GOLDSTEIN,

Junior Party,
(Application No. 08/380,194),

v.

JOHN M. IVY and DAVID E. CLEMENTS

Senior Party
(Application No. 08/113,890).

Patent Interference No. 104,194

Before: McKELVEY, Senior Administrative Patent Judge, and SCHAFER and LEE, Administrative Patent Judges.

PER CURIUM

JUDGMENT PURSUANT TO 37 CFR § 1.662

Upon consideration of Zhu's REQUEST FOR ADVERSE JUDGMENT UNDER 37 C.F.R. § 1.662 AND REQUEST FOR RETURN OF PRELIMINARY STATEMENT BY PARTY ZHU ET AL. (Paper 34), it is

ORDERED that judgment on priority as to Count 1, the sole count in the interference, is awarded against the junior party ALEX ZHU and JACK GOLDSTEIN.

FURTHER ORDERED that, judgment on priority as to Count 1 is awarded in favor of senior party JOHN M. IVY and DAVID E. CLEMENTS.

FURTHER ORDERED that junior party ALEX ZHU and JACK GOLDSTEIN is not entitled to a patent containing claims 24-56 (corresponding to Count 1) of application 08/380,194, filed January 30, 1995.

FURTHER ORDERED that senior party JOHN M. IVY and DAVID E. CLEMENTS is entitled to a patent containing claims 3-6, 13, 14 and 16 (corresponding to Count 1) of Application 08/113,890, filed August 30, 1993.

FURTHER ORDERED that Zhu's preliminary statement be returned unopened.

FURTHER ORDERED that a copy of this decision be made of record in application 08/380,194 and in application 08/113,890.

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FRED E. McKELVEY)
Senior Administrative Patent Judge)
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_____)
RICHARD E. SCHAFER)
Administrative Patent Judge)
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_____)
JAMESON LEE)
Administrative Patent Judge)

BOARD OF PATENT
APPEALS AND
INTERFERENCES

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cc (via Federal Express):

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